

Criminal Code

an offender profiting from his crime through the royalties derived from publications about such crime.

The second major objective—and this is clearly articulated by some of the families of the victims involved—is the prevention of the publication itself of certain types of works which unduly exploit the details of infamous crimes.

In assessing whether any particular approach that may be suggested in pursuit of either or both of these objectives is suitable, we must also bear in mind other crucial interests and principles. These include the victim's right to and desire for privacy, the general interest in public decency, and the desire to afford some measure of compensation to victims of crime. Also, and in a sense working in the opposite direction, we must always consider the fundamental societal interest in freedom of expression, as well as the desirability of encouraging literature of merit.

Taking these in order, the desire of the victims for privacy is obviously a matter of public concern and militates against the right to expression of the offender. It can generally be assumed that most victims of crime lending themselves to sensational exploitation would be further offended by having the details of those events publicly exploited, especially by the publication of an account produced by the offender himself.

● (1540)

Concern for public decency is related to the issue I have just mentioned, in constituting an argument for restriction on the otherwise guaranteed freedom of expression. In essence, the point is that the public at large, not only the victim or the victim's survivors, has an interest in suppressing the publication of accounts of notorious or sensational crimes, especially when the accounts are lurid or exploitative and, further, the offender's desire for further publicity or commercial gain.

Running parallel in a sense to these concerns is the desire to provide some measure of compensation to victims of crime. A federal-provincial task force established at the insistence of Ministers responsible for criminal justice has been working over the past year to explore a number of issues and options aimed at ameliorating the plight of victims. Included among the issues they examined was that of alternative sources of compensation funding for victims of crime. Seizure and forfeiture of royalties and other proceeds payable to offenders as a result of contracts for publication of the details of their criminal activity certainly fall within this general heading. Such a model exists in a number of American states. The Bill we are considering this afternoon also makes provision to this effect.

I should like to outline briefly the issues of freedom of expression and the desire to encourage literary works of merit, both societal interests which give us pause in our consideration of actions that restrict or remove the ability of some individuals in society to seek financial gain through publication of their thoughts. As all Hon. Members are aware, freedom of expression is guaranteed by Section 2(b) of the Canadian Charter of

Rights and Freedoms. This is a fundamental right all Canadians cherish. The question we must consider in the context of legislative proposals such as those contained in Bill C-664 is whether those proposals constitute a "reasonable limit . . . demonstrably justified in a free and democratic society" under the terms of Section 1 of the Charter.

With respect to the final consideration to which I have referred, that related to the societal interest in encouraging publication of works having literary, historical, criminological, legal, rehabilitative or other merit, the problem is posed not so much by the particular instances which are paramount in our minds in considering this legislation, but rather by other cases which I am sure most Hon. Members would not wish to see affected by legislation of the kind presented here today. Examples of valuable works of literature produced by criminals abound in world literature throughout the centuries. To cite one recent Canadian example, we need to think no further back than a year or so ago when the Governor General's award for literature was presented to Roger Caron for his book "Go Boy".

The point I am making is that all these interests, principles and objectives must be borne in mind in assessing the various options which might be considered and, in particular, the specific option embodied in Bill C-664.

Ms. Lynn McDonald (Broadview-Greenwood): Mr. Speaker, the sentiment behind Bill C-664 is, of course, one all decent people would share. We are horrified at the thought of a murderer like Clifford Olson profiting from exploitation in books about his crimes, or in any other way. But I should like to suggest that the Bill before us goes too far. We must explore some other means of dealing with the problem.

First, I would suggest that there is a problem of jurisdiction, whether the issue should be dealt with at the federal or provincial level. The Provinces are responsible for civil rights, for property and for contracts. Compensation for victims of crime is under provincial jurisdiction; some Provinces have boards dealing with this. All these subjects come under this legislation, and it is not clear that they could not be dealt with better at the provincial level.

There have been consultations with the Provinces on the issue. So far those consultations have been inconclusive. Some Provinces would like to see the federal Government proceed, some would not. Clearly more work has to be done. This matter has to be sorted out with the Provinces.

This Bill goes too far in a number of other respects. The motivation is to prevent serious criminals like murderers from profiting from their crimes, but in fact the wording refers to any offender convicted of a crime punishable by five years or more. This could include somebody, for example, who has been found guilty of importing cannabis for personal use, a victimless crime. It could be a person who has committed a property crime without violence. A person who has spent a number of years in prison and has, to most people's satisfaction, paid his or her debt to society could be stopped in the expression of his or her experience in prison. We know that there are people